



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 1

1 CONGRESS STREET, SUITE 1100
BOSTON, MASSACHUSETTS 02114-2023

CONTAINS ENFORCEMENT-SENSITIVE INFORMATION

MEMORANDUM

DATE: August 1, 2006

SUBJ: Request for a Removal Action at the JARD Company Site,
Bennington, Bennington County, Vermont - **Action Memorandum**

FROM: CDR Allen K. Jarrell, On-Scene Coordinator
Emergency Response and Removal Section I *all k jar*

THRU: David McIntyre, Chief *DMcIntyre*
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TO: Susan Studlien, Director
Office of Site Remediation and Restoration

I. PURPOSE

The purpose of this Action Memorandum is to request and document approval of the proposed removal action at the Jard Company Site, (the Site), which is located on Bowen Rd. in Bennington, Bennington County, Vermont. Hazardous substances present in soils and in the buildings at the Site, if not addressed by implementing the response actions selected in this Action Memorandum, will continue to pose a threat to human health and the environment. There are no nationally significant or precedent-setting issues associated with this Site, and there has been no use of the OSC's \$200,000 warrant authority.

II. SITE CONDITIONS AND BACKGROUND

CERCLIS ID# : VTD04814741
SITE ID# : 01L2
CATEGORY : Time Critical

A. Site Description

1. Removal site evaluation

On January 5, 2006, the Vermont Department of Environmental Conservation (VT DEC) notified EPA that the Site was again becoming a significant environmental and public health concern due to the continued deterioration of the building, which was contaminated inside with polychlorinated biphenyls (PCBs), and destroyed security fencing, which allowed access to trespassers, and requested EPA's assistance in addressing the Site.

Recent investigations, mentioned below, had shown that high levels of PCBs inside the unsecured building on the metal walls and the concrete slab floor had not been addressed by the owner. The Site was a former capacitor and transformer manufacturing facility that has been unoccupied since Jard declared bankruptcy in 1989, and was the scene of past removal actions, described later in this document.

On January 18, 2006, the OSC participated in a site reconnaissance with VT DEC, the Bennington Town Manager, and the State Fire Marshal. On March 1, 2006, the OSC and VT DEC representative met to discuss the scope of a PA/SI and determine options for potential removal actions. On April 13, 2006, the OSC requested that a Technical Directive Document (TDD) be issued to START to assist in performing a PA/SI to confirm and further define the extent of PCB contamination noted in an EPA funded Brownfields report done by Stone Environmental for VT DEC. On May 11, 2006, the TDD was issued.

On May 19, 2006, EPA, START, and VT DEC conducted a site reconnaissance to determine the sample activities for June 13-14, 2006 PA/SI. Over 50 samples were taken during June 13-14, 2006 with field analysis provided by VT DEC and confirmation samples taken to the EPA New England Regional Laboratory (NERL) in Chelmsford, MA. Analysis confirmed high levels of PCBs remained on this Site. The PA/SI was concluded, and a removal action was recommended in a closure memo dated July 5, 2006.

2. Physical location

The Jard Company, Inc. Site is located on 126 Bowen Road in Bennington, Vermont. The Site property (42° 53' 26" north latitude and 73° 11' 22.5" west longitude) is identified by the Bennington County Assessor on Tax Map 45, Lot 01-73. The Site encompasses approximately 36.16 acres and includes a 120,000 square foot vacant building; paved parking areas, grassed areas and lightly wooded areas within a unsecured security fence and in front of the building; and a larger undeveloped wooded area outside of the unsecured security fence extending south to the Roaring Branch of the Walloomsac River (Roaring Branch) and west to adjacent properties. The Site's current local zoning classification is Industrial.

3. Site characteristics

The Site operated from 1969 to 1986, producing capacitors, non-fluid transformers and motors used in household appliances. Prior to 1969, the property was undeveloped woodlands. A variety of hazardous wastes were generated at the site in association with its manufacturing processes, including polychlorinated biphenyls (PCBs); a variety of volatile organic compounds (VOCs), including trichloroethylene (TCE); 1,1,1-trichloroethane (1,1,1-TCA), and toluene; and semi-volatile organic compounds (SVOCs), including bis-2-ethylhexyl phthalate (DEHP); waste hydraulic and lubricating oils; waste paints and varnishes; waste zinc oxide; waste-contaminated rejected capacitors; spent SpeediDri™ and PCB- and phthalate-contaminated wastewater.

In 1997, the Site experienced a fire which significantly damaged a portion of the building and potentially affected the nature and distribution of contaminants. The Site has been owned, operated and officially or unofficially controlled by various parties since Jard entered into bankruptcy in September 1989.

The Site is thus bounded by Bowen Rd. to the north, the State of Vermont Agency of Transportation Garage to the northeast, an undeveloped lot to the east, the Roaring Branch to the south, and little league baseball fields and an undeveloped lot to the west. In addition, Mt. Anthony High School is located across the Roaring Branch to the south.

According to the EPA Region 1 Environmental Justice Mapping Tool, the Site is in a low income environmental justice area.

4. Release or threatened release into the environment of a hazardous substance, or pollutant or contaminant

Hazardous substances include PCBs and asbestos. High levels of PCBs are located in the soil outside and beneath the building, in the concrete slab of portions of the building, and on the steel walls of the building. Asbestos was identified in floor tiles in the building. VT DEC also noted elevated levels of DEHP, VOCs, and Zinc in their Brownsfield report.

5. NPL status

The Site is not currently on the National Priorities List, and has not received a Hazardous Ranking System rating.

B. Other Actions to Date

1. Previous actions

EPA conducted a removal action at this Site from January 6 – November 11, 1992 which involved hazardous chemical drum/container removal, contaminated soil removal, securing the building, and perimeter fence installation. The intent of this action was to stabilize the Site by removing available threats to public health. At that time, there were indications that a new owner planned to eventually conduct a full site cleanup to bring the property back to productive use.

After a fire on March 16, 1997, VT DEC and local officials requested EPA to further investigate conditions at the Site. EPA conducted a second removal action from September 21, 1998 – September 21, 1999 to remove additional contaminated soil, re-secure the building, and repair the perimeter fence.

2. Current actions

There are no ongoing EPA actions.

C. State and Local Authorities' Roles

1. State and local actions to date

In February 2005, the Town of Bennington, planning to take title of the Jard Inc. property by tax sale, was awarded EPA funding to conduct a TBA at the site as administrated by the VT DEC, Brownfields Program. Stone Environmental, Inc. (Stone) was awarded a contract to conduct the TBA.

During August 2005, Stone conducted the TBA to investigate the surficial features of the Site with a goal of expediting Site re-use. The TBA was conducted in accordance with the Triad Approach, using a Dynamic Work Strategy outlined in the project quality assurance project plan (QAPP). Asbestos tiles and extensive PCB contamination was noted.

The TBA indicated widespread PCB contamination of interior building materials, a soil gas plume (trichlorofluoromethane) beneath the concrete slab, semi-volatile organic compound (SVOC), volatile organic compound (VOC) and PCB contamination in the sub-slab soils, low-level PCB contamination in exterior surface soil and higher level contamination 2.5 to 5.0 feet below ground surface (bgs) in vadose zone soils, PCB contamination in shallow overburden groundwater and a migration of a co-mingled contaminants groundwater plume from where it was observed in previous investigations. There was also PCB contamination discovered on the wall surface (wipe) samples at 3,400 ug/100 square centimeters

2. Potential for continued State/local response

VT DEC has so far spent \$10,000 for field laboratory analysis. VT DEC and the Town of Bennington are examining the potential to provide funding and/or labor, equipment, or analysis toward the removal action.

III. THREATS TO PUBLIC HEALTH OR WELFARE OR THE ENVIRONMENT, AND STATUTORY AND REGULATORY AUTHORITIES

A. Threats to Public Health or Welfare

Actual or potential exposure to nearby human populations, animals, or the food chain from hazardous substances or pollutants or contaminants; [§300.415(b)(2)(i)];

The building is not secured and there are visible signs of trespass. Thus, people entering this building have a high potential of contact with PCBs that are on the concrete slab floors and the steel walls. In addition, the potential of inhaling or ingesting PCBs are high due to PCBs adhering to the large amount of dust and debris that can be kicked up off of the floor.

The toxicity information for asbestos and PCBs are significant reasons for concern. The asbestos found on the floor tiles at the Site could cause lung damage or cancer if inhaled.¹ PCBs have also been found to be carcinogenic.²

Weather conditions that may cause hazardous substances or pollutants or contaminants to migrate or be released; [§300.415(b)(2)(v)];

The building roof leaks badly and the high levels of PCBs on the concrete slab and walls have the potential to migrate during storms to the surface soils on Site.

The availability of other appropriate Federal or State response mechanisms to respond to the release; [§300.415(b)(2)(vii)];

Neither state nor local authorities have the resources to remove the hazardous substances from the Site.

B. Threats to the Environment

Indications are that there is a large subsurface reservoir of PCB oil under the building impacting the groundwater and migrating off site. This removal action is not being initiated to resolve the problem of environmental contamination posed by the Site. Dealing with this problem is beyond the scope of the removal action, although the removal action may reduce the magnitude of the problem through addressing its intended purpose of eliminating the surface contact threat. Although the threat to the environment will remain as it has been, no sensitive ecosystems or drinking water supplies are known to be impacted by this situation.

Actual or potential exposure to nearby human populations, animals, or the food chain from hazardous substances or pollutants or contaminants; [§300.415(b)(2)(i)];

¹Agency for Toxic Substances and Disease Registry (ATSDR), U.S. Department of Health and Human Services, Public Health Service, *Toxicological Profile for Asbestos*, September 2001.

²Agency for Toxic Substances and Disease Registry (ATSDR), U.S. Department of Health and Human Services, Public Health Service, *Toxicological Profile for Polychlorinated biphenyls*, November 2000.

The building is not secured and there are visible signs of trespass. Thus, people and animals entering this building have a high potential of contact with PCBs that are on the concrete slab floors and the steel walls. In addition, the potential of inhaling or ingesting PCBs are high due to PCBs adhering to the large amount of dust and debris that can be kicked up off of the floor.

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The availability of other appropriate Federal or State response mechanisms to respond to the release; [§300.415(b)(2)(vii)];

Neither state nor local authorities have the resources to remove the hazardous substances from the Site.

IV. ENDANGERMENT DETERMINATION

Actual or threatened releases of hazardous substances from this Site, if not addressed by implementing the response action selected in this Action Memorandum, may present an imminent and substantial endangerment to public health, or welfare, or the environment.¹

V. PROPOSED ACTIONS AND ESTIMATED COSTS

A. Proposed Actions

1. Proposed action description

At this time, it does not appear that there is a viable potentially responsible party (PRP) with the resources to conduct the removal action. Therefore, the removal will proceed as a fund-lead action. The removal action will protect public health, welfare, and the environment from the threats identified in Section III by removing the hazardous substances from the Site. Removal activities will include:

¹[“In accordance with OSWER Directive 9360.0-34, an endangerment determination is made based on Region I Policy titled, *Policy on Endangerment Determinations in Region One Action Memorandums*, March 2004.”]

- A site walk with the cleanup contractor;
- Securing the Site (providing security guards, and repairing/adding fencing to restrict access) as deemed necessary;
- Demolishing the building and drum storage shed and transportation and disposal of all building debris;
- Removing and disposing of the *highly PCB-contaminated portion* of the concrete slab building foundation;
- Removing and disposing of drywell, UST, and nearby contaminated soil;
- Removing and disposing of asbestos tiles, transformers, and sealing off pipes;
- Perform any necessary additional sampling, analysis and characterization of hazardous substances;
- Identifying and characterizing waste streams and developing waste disposal profiles;
- Removing heavily PCB-contaminated soil below the removed portion of the concrete slab and, if it provides or could provide a contact threat, from around the building;
- Providing transportation and disposing of hazardous substances including but not limited to PCB contaminated soils, demolition debris, and asbestos containing materials at CERCLA-approved off-site disposal and recycling facilities in a safe and cost-effective manner;
- Backfilling any areas where contaminated soils were removed with clean fill;
- Designing and building an appropriate cover system over the remaining slab and immediate area;
- Repair response-related damage;
- Demobilizing all equipment, supplies and personnel as they are no longer needed at the Site.

2. Community relations

Since the Site is located near a public school and baseball fields, EPA will remain involved with the community throughout the cleanup. EPA will coordinate closely with state and local authorities on community relations activities such as press releases, fact sheets, or public meetings.

3. Contribution to remedial performance

The cleanup proposed in this Action Memorandum is designed to mitigate the threats to human health and , with the above-stated caveat, the environment posed by the Site. The actions taken at the Site would be consistent with and will not impede any future responses.

4. Description of alternative technologies

The use of alternative technologies with regard to off-site disposal options will be examined as the site work progresses. On-site field screening and analytical techniques may also be utilized for on-site waste characterization purposes.

5. Applicable or relevant and appropriate requirements (ARARs)

The cleanup standards, standards of control, and other substantive requirements that have been identified to-date, are listed below, and are applicable within the confines of EPA Publication 540/P-91/011, "Superfund Removal Procedures: Guidance on the Consideration of ARARs During Removal Actions."

Federal ARARs:

29 CFR Parts 1910, 1926, and 1904: OSHA Health and Safety Regulations

40 CFR Part 262 Standards Applicable to Generators of Hazardous Waste:

Subpart B - The Manifest

- 262.20 : General requirements for manifesting
- 262.21 : Acquisition of manifests
- 262.22 : Number of copies of manifests
- 262.23 : Use of the manifest

Subpart C - Pre-Transport Requirements

- 262.30 : Packaging
- 262.31 : Labeling
- 262.32 : Marking

Subpart D - Recordkeeping and Reporting

- 262.40 : Recordkeeping

40 CFR Part 264 Standards for Owners and Operators of Hazardous waste Treatment, Storage, and Disposal Facilities:

Subpart I - Use and Management of Containers

- 264.171 : Condition of containers
- 264.172 : Compatibility of waste with containers
- 264.173 : Management of containers
- 264.174 : Inspections
- 264.175 : Containment
- 264.176 : Special requirements for ignitable or reactive waste
- 264.177 : Special requirements for incompatible wastes

40 CFR Part 264 Hazardous Waste Regulations - RCRA Subtitle C:
268-270 : Hazardous and Solid Waste Amendments Land Disposal Restrictions Rule

40 CFR Part 300.440 Procedures for Planning and Implementing Off-Site Response Actions (Off-Site Rule)

40 CFR Part 761.60 and Parts 761.202-218 : TSCA requirements for disposal of PCBs

49 CFR Parts 171-179 : Department of Transportation Regulations for Transport of Hazardous Materials

State ARARs:

The OSC will coordinate with State officials to identify additional State ARARs, if any. In accordance with the National Contingency Plan and EPA Guidance Documents, the OSC will determine the applicability and practicability of complying with each ARAR which is identified in a timely manner.

6. Project schedule

The OSC estimates that this removal action will take approximately 10 months to complete. Removal actions will commence immediately after receiving access to the Site from the property owner.

B. Estimated Costs

COST CATEGORY		CEILING
REGIONAL REMOVAL ALLOWANCE COSTS		
ERRS Contractor		\$1,500,000.00
Interagency Agreement		\$ 0.00
OTHER EXTRAMURAL COSTS NOT FUNDED FROM THE REGIONAL ALLOWANCE		
START Contractor		\$166,000.00
Extramural Subtotal		\$1,666,000.00
Extramural Contingency	20%	\$333,200.00
TOTAL, REMOVAL ACTION CEILING		\$1,999,200.00

VI. EXPECTED CHANGE IN THE SITUATION SHOULD ACTION BE DELAYED OR NOT TAKEN

Delayed action will increase public health risks due to increased potential exposure of PCBs to humans who frequent the building and the migration of PCBs into the groundwater and the Roaring Branch. In the absence of the removal action described herein, conditions at the Site can be expected to remain unaddressed and degrade, and threats associated with the abandoned hazardous substances will persist and increase.

VII. OUTSTANDING POLICY ISSUES

There are no precedent setting policy issues associated with this Site.

VIII. ENFORCEMENT ... For Internal Distribution Only

See attached Enforcement Strategy.

The total EPA costs for this removal action based on full-time accounting practices that will be eligible for cost recovery are estimated to be \$1,999,200 (extramural costs) + \$100,000 (EPA intramural costs) = \$2,099,200 X 1.3151 (regional indirect rate) = \$2,760,658²

IX. RECOMMENDATION

This decision document represents the selected removal action for the Jard Company Site in Bennington, VT, developed in accordance with CERCLA, as amended, and not inconsistent with the National Contingency Plan. The basis for this decision will be documented in the administrative record to be established for the Site.

Conditions as the Site meet the NCP Section 300.415 (b) (2) criteria for a removal action due to the following:

Actual or potential exposure to nearby human populations, animals, or the food chain from hazardous substances or pollutants or contaminants [§300.415(b)(2)(i)];

Actual or potential contamination of drinking water supplies or sensitive ecosystems [§300.415(b)(2)(ii)];

High levels of hazardous substances or pollutants or contaminants in soils largely at or near the surface, that may migrate; [§300.415(b)(2)(iv)];

Weather conditions that may cause hazardous substances or pollutants or contaminants to migrate or be released; [§300.415(b)(2)(v)];

The availability of other appropriate Federal or State response mechanisms to respond to the release; [§300.415(b)(2)(vii)].

²Direct Costs include direct extramural costs \$1,999,200 and direct intramural costs \$100,000. Indirect costs are calculated based on an estimated indirect cost rate expressed as a percentage of site specific costs [31.51% x \$2,760,658], consistent with the full accounting methodology effective October 2, 2000. These estimates do not include pre-judgement interests, do not take into account other enforcement costs, including Department of Justice costs, and may be adjusted during the course of a removal action. The estimates are for illustrative purposes only and their use is not intended to create any rights for responsible parties. Neither the lack of a total cost estimate nor deviation of actual total costs from this estimate will affect the United States' right to cost recovery.

I recommend that you approve the proposed removal action. The total removal action project ceiling if approved will be \$2,640,000.

APPROVAL: Simon Shellen

DATE: 08/03/06

DISAPPROVAL: _____

DATE: _____